

IN THE DISTRICT COURT OF THE UNITED STATES
EASTERN DISTRICT OF PENNSYLVANIA

MICHAEL MILLER

Plaintiff,

v.

COUNTY OF LANCASTER, *et al.*,

Defendants.

Civ. No.: 5:24-cv-05338-JFL

Judge Joseph F. Leeson, Jr.

PLAINTIFF'S MOTION FOR ENTRY OF FINAL JUDGMENT

FOLLOWING CLARIFICATION OF ECF 70

Plaintiff moves for immediate entry of final judgment pursuant to Fed. R. Civ. P. 58(a), (b)(2), and (d). As set forth in his concurrently filed Clarification and Supplement to ECF 70 (ECF 71), Plaintiff has now expressly waived amendment as to all counts dismissed without prejudice in the Court's March 7, 2025 Memorandum and Order (ECF 36), thereby curing any perceived *Weber/Borelli* finality issue and leaving no claims remaining for adjudication.

1. On March 7, 2025, the Court entered a Memorandum and Order (ECF 36) granting Defendants' Motion to Dismiss (ECF 17) under Fed. R. Civ. P. 12(b)(1) and 12(b)(6) on a facial challenge, dismissing Counts I, VII, VIII, IX, X, and XI without prejudice; dismissing Counts II, III, IV, and XII with

prejudice; and dismissing Counts V and VI for lack of subject-matter jurisdiction and, in the alternative, with prejudice.

2. On July 27, 2025, Plaintiff filed a Notice of Intent Not to Amend and Election to Stand on Dismissals (ECF 70), expressly waiving amendment as to Counts I, IX, X, and XI.
3. On August 8, 2025, Plaintiff filed ECF 71, expressly waiving amendment as to Counts VII and VIII, confirming his election to stand on all claims dismissed without prejudice in ECF 36.
4. Plaintiff attaches a Proposed Separate Judgment in compliance with Rule 58(a) that reflects the final disposition of each count as set forth in ECF 36.

WHEREFORE, Plaintiff respectfully requests that the Court enter the attached Proposed Judgment forthwith, so that appellate proceedings may commence under 28 U.S.C. § 1291 and Fed. R. App. P. 4(a).¹

Respectfully submitted,
/s/ Michael Miller
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Dated: August 8, 2025

¹ Plaintiff notes that the Court's disposition under both Rule 12(b)(1) and Rule 12(b)(6) on a facial challenge presents a jurisdictional sequencing question preserved for appellate review under *Steel Co. v. Citizens for a Better Environment*, 523 U.S. 83 (1998), and *Mortensen v. First Fed. Sav. & Loan Ass'n*, 549 F.2d 884 (3d Cir. 1977).

CERTIFICATE OF SERVICE

I hereby certify that I caused to be served by e-filing a true and correct copy of the foregoing document to the following:

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Respectfully Submitted,

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